



JACK O'CONNELL
State Superintendent of Public Instruction

**CALIFORNIA
DEPARTMENT
OF
EDUCATION**

1430 N Street

P. O. Box 944272

Sacramento, CA

94244-2720

TITLE 5. Education

California State Superintendent of Public Instruction

NOTICE OF PROPOSED RULEMAKING

Regional Market Rate – Child Care and Development Programs

[Notice published September 26, 2003]

The State Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The Superintendent will hold a public hearing starting at 10:00 a.m. on November 18, 2003 at 1430 N Street, Room 1103, Media Center, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Superintendent requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period closes at **5:00 p.m. on November 11, 2003**. The Superintendent will only consider written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the Superintendent's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Telephone: (916) 319-0641
E-mail: dstrain@cde.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 8222, 8261, 8263, 8265, 8265.5, and 8269.

Reference: Sections 8208(e), (1), (x); 8220, 8222, 8263, 8265, 8266.5, 8269, 8354, 8357, and 8461, Education Code.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The 2003-2004 Budget Act directs the California Department of Education to promulgate emergency regulations governing the use of the Regional Market Rate (RMR) to provide statewide consistency as well as clarify reimbursement categories and the appropriate rate of reimbursement for child care services. As required by the Budget Act, the proposed emergency regulations change the definitions of certain rate categories and provide conditions and limitations on the use of certain rates and adjustment factors.

Education Code, Chapter 2 (the "Child Care and Development Services Act"), Article 11, Section 8269, authorizes the Superintendent to adopt rules, regulations, and guidelines to facilitate the funding and reimbursement procedures required by Chapter 2. This section authorizes the Superintendent to comply with requirements of the 2003-2004 Budget Act.

The proposed regulations apply to all programs utilizing the RMR for provider reimbursement, and provide clear, consistent definitions, conditions, and limitations on the use of certain rates, rate categories, and adjustment factors as required by the 2003-2004 Budget Bill.

FORMAT

The proposed emergency regulations became effective on September 4, 2003. However, changes were subsequently made to the regulations after the effective date. The Superintendent initially used the "underline" and "~~strikeout~~" as a method of identifying the changes made to the emergency regulations. Changes made to the regulations after they became effective are identified by "**bold double underline**" and "**~~bold strikeout~~**." The "**bold double underline**" language is to be added to the proposed regulations. The "**~~bold strikeout~~**" language is to be deleted from the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on a representative private person or business: Lower reimbursement amounts possible for some individual providers.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: The superintendent has made an initial determination that the proposed regulatory action would not affect housing costs.

Affect on small businesses: Lower reimbursement amounts possible for some individual providers.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Superintendent must determine that no reasonable alternative considered by the Superintendent or that has otherwise been identified and brought to the attention of the Superintendent would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Superintendent invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

Greg Hudson, Administrator
California Department of Education
Child Development Division
1430 N Street, 6th Floor
Sacramento, California 95814
Email: ghudson@cde.ca.gov
Telephone (916) 322-6233

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the Superintendent may adopt the proposed regulations substantially as described in this notice. If the Superintendent makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the Superintendent adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The Regulations Adoption Coordinator will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.